

Approved 5/19/10

**TOWN OF CUSHING
PLANNING BOARD
January 6, 2010**

Board Present: Chairman Dan Remian, David Cobey, Bob Ellis, Evelyn Kalloch, Frank Muddle, and Secretary Deborah Sealey

Absent: CEO Scott Bickford

1.Call to Order: Chairman Remian called the meeting to order at 6:07 P.M. and a roll call was taken.

2. Approve Minutes: 12/2/09

ACTION: Mr. Muddle made a motion, seconded by Mr. Cobey, to approve the minutes of the December meeting.
Carried 4-0-0 (Mrs. Kalloch had not yet arrived)

3. Meduncook Plantation Preliminary Application for Subdivision Amendment to Lots 9, 10, and 26, Presented by Gartley & Dorsky for Machias Savings Bank: Will Gartley and Andrew Hedrich, of Gartley & Dorsky Engineering and Surveying, and Paul Rudd of Machias Savings Bank represented the application before the Board. Mr. Remian said the Board would review the application for completeness.

Mr. Rudd said the bank had presented a minor amendment to the subdivision and hoped to receive preliminary approval, subject to the support of the HOA, this evening. Mr. Gartley said the goal had been to put together a submission containing three things: the preliminary subdivision amendment application, an application for a road permit in the Shoreland Zone [SZ], and a waiver of the required driveway grade. The engineer said the three lots would be reduced to two, eliminating the multi-use road, in order to simplify the problem at the end of the road. In addition, the unfinished T-turnaround and grade problems would be completed. Chairman Remian complimented Mr. Gartley on the applications' presentation.

Mrs. Kalloch arrived at 6:15 P.M.

Mr. Remian said the Subdivision Regulations [SR] checklist would be reviewed together with the SZ requirements and no decision would be made until both were completed. Mr. Cobey asked if the question of the HOA's approval could be resolved up front. Rick Palm, representing the HOA, said the issues referred to by Mr. Rudd were major, rather than minor. He said the HOA had strong opinions about the issues yet to be resolved. First, he said the bank owned the common areas by deed, but the HOA owned them by covenant and that must be corrected. Mr. Palm said the HOA wanted approval withheld until things were resolved and the HOA Board had a chance to vote on it. The HOA had not seen the application until today and would need 30 days to review it, he said. Don Wigglesworth, President of the HOA, asked if the final review would take place in a month if the preliminary application were approved tonight. Chairman Remian said that was usually the case.

Mr. Cobey said that, while he was anxious to hear the HOA's opinion of the application, its issues did not seem to bear on the present application. Mr. Muddle asked if the HOA Board was unanimous in its opinion. Mr. Wigglesworth replied that no decisions had been made because the HOA had not seen the application. Mr. Muddle asked for confirmation that the HOA had issues with the bank over some matters. Mr. Wigglesworth confirmed this, saying that some lot lines had not yet been clarified, especially those of the common area. Mr. Cobey said he saw no definitive lines for the lots in question, and no outlines of the Resource Protection [RP] or proposed conservation areas. Mr. Hedrich apologized for the fact that only Mr. Remian had a copy of the original colored drawings, which showed the lot lines, RP area, etc. Mr. Cobey asked if the conservation area would be the same as the RP area and Mr. Hedrich said he had removed the conservation area because it could be handled by deed restriction and the DEP could define its size and shape.

Regarding the HOA's approval of the application, Mr. Ellis said the SR did not require this of the applicant. Mr. Wigglesworth said the HOA wanted its approval to be required. Mr. Remian said he thought it was appropriate to hear from the abutters before acting on the final application.

Mr. Cobey asked why it was stated that the driveway would only be re-graded from 97 to 104, when the portion with grades over 12% ran from 96 to 114. Mr. Hedrich said this was an error, since it would all be graded down. Mr. Remian said there had been an alternative to Lot 26, but Mr. Hedrich said that earlier submittal was not part of tonight's application. Mr. Remian then asked if the RP drawing submitted was the one Gartley & Dorsky prepared for the PB in the past. Mr. Hedrich said it was not; it had been redone after the bank contacted Gartley & Dorsky. Mr. Remian said he was troubled by the fact that the ROW was shown as 35' wide when it was 72' wide in some places. Mr. Hedrich responded that the ROW was roughly depicted on the original.

Chairman Remian began the SR application completeness review by noting the items included in the application, as well as items included in the SZ permit application. He noted that there was no submission of financial capacity and Mr. Rudd said he could provide a statement of the condition of Machias Savings Bank. Mr. Cobey said he would like to see that included in the application. Mr. Remian noted there were a request for waiver of driveway grade, but no justification. Mr. Hedrich said the justification was within the text. Mr. Cobey said the Fire Chief had said he wouldn't take a truck down there, which spoke to the safety of the driveway. Mr. Muddle asked if the Fire Chief had seen the application. Mr. Remian said the Fire Chief was aware of the situation, but the applicant should submit the information directly to him, as well as to the Rescue Squad, Road Commissioner, and CEO, etc., who would provide the Board with written comments before the next meeting. Mr. Remian confirmed that a finding on the waiver would be postponed until the relevant people, including the HOA, had commented. Mr. Remian said the deed covenants and restrictions were required to be included in the application.

The chairman said the common area was in RP and Mr. Cobey said there would be no continuity if this were not shown on the recorded plan. Mr. Hedrich said there was too much detail to show it on the plan, but Mr. Cobey said it was important for owners to know the exact location of the common area. Mr. Hedrich said he could add the outline without the topo. Mr. Ellis said it must be shown on the SZ plan, so could be left off the subdivision plan; the Board agreed.

Mrs. Kalloch left at 7:12 P.M.

Mr. Cobey said the existing tree canopy should be shown on the subdivision plan. Mr. Ellis said it did not have to be on the final plan, but should be submitted for the record as a baseline. Mr. Cobey asked that the flood plain be marked as Elevation 10. In response to the chairman's question about State and Federal requirements, Mr. Hedrich said a transfer permit and a minor site law amendment permit were required. Mr. Remian and Mr. Hedrich agreed there were no RPA requirements.

The PB began the review of standards. It was noted that there were no satisfactory deed covenants yet. Mr. Wigglesworth said individual lot owners, rather than the HOA, were responsible for driveways. Mr. Palm said HOA members were concerned that some land originally in the common area was being utilized for lots.

Mr. Cobey said there was no way to check G2 other than Emery & Garrett's report and map. Mr. Remian said he would obtain that map and Mr. Hedrich would add a note concerning it to the plan. Mr. Remian noted that the DEP had originally approved the storm water management plan. Mr. Hedrich confirmed that new grading and the location of the T-turnaround would be on the final plan. Mr. Remian asked the engineer to give him a set of plans for the fire and rescue squads. Mr. Hedrich stated that the lot corners would be capped after final approval. The chairman said that completeness would be provided after the requested items were included on the plan or submitted. These included the final depiction of roads and driveway, flood elevation, groundwater mapping, and information to emergency departments. There would be no public hearing.

ACTION: Mr. Ellis made a motion, seconded by Mr. Muddle, to find the application complete with the aforementioned deficiencies.
Carried 4-0-0

4. Meduncook Plantation Shoreland Zone Lane Use Permit for Driveway in Resource Protection Presented by Gartley & Dorsky for Machias Savings Bank: Mr. Cobey said the PB could grant a permit for a driveway in RP if no reasonable alternative existed outside RP. He said that determination had been made and he wondered why there was no permit. Mr. Ellis said the driveway length and construction and the turnaround had all changed since then, so a new permit would be needed.

Mr. Hedrich said the overall intent of 14% grade would be met in order to access a principle structure through RP. Mr. Ellis said only Land Use Standard H (Roads & Driveways) was applicable for review and he felt it should be done with final approval because the waiver request must be considered. Mr. Cobey asked if the waiver request included the banks of the road and driveway. Mr. Hedrich felt the banks met the 2-to-1 side-slope requirement, though Mr. Remian said his measurements showed they were 1-to-1 and the original RP mapping done by Gartley & Dorsky showed slopes of 45%. Mr. Gartley said they would double-check the side-slopes. Mr. Remian said he wanted an "as-built" that actually depicted what was there.

Mr. Ellis said tonight the PB should just make sure the submittals for SZ were complete, so it would be ready for final. Mr. Cobey stated that roads, driveways, and erosion/sediment control needed to be reviewed. Mr. Ellis added storm water runoff to the list. Mr. Remian ascertained that the waiver request was for the entire driveway. Mr. Gartley said this had been on tonight's agenda because the regulations required it. He asked if the Board would like anything else in support of the waiver request. Mr. Cobey replied that the fact that stone bollards had been added to the edge was the justification for the steeper driveway and he wanted to see that in the application. Mr. Rudd said it would be all right to review the two applications together as long as the bank had some assurance that things looked good, because one approval was useless without the other. Mr. Remian said the Board felt things looked good and did not anticipate any problems.

5. Old Business:

Mr. Cobey said the Selectmen had approved the draft of public road design and construction maintenance. However, because the Selectmen had acted on it, no action was taken on the changes this would make to the Subdivision Regulations. If the PB adopted it now, he said, new SR could be printed, including other changes that had been made.

ACTION: Mr. Ellis made a motion, seconded by Mr. Muddle, that road ordinance changes be incorporated into the Subdivision Regulations.
Carried 4-0-0

6. New Business:

Mr. Muddle asked if the Board was required to hold a hearing when lot lines in a subdivision were altered. Mr. Remian replied that a hearing was discretionary.

Mr. Ellis asked when the Board would finalize changes to the by-laws to reflect a thumbs-up or thumbs-down vote? Mr. Remian said he would circulate the draft again.

7. Adjournment: The meeting was adjourned at 8:40 P.M.

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Respectfully submitted,

Deborah E. Sealey
Recording Secretary